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|----------------------------------------------------------------------------------------------------------------------|-------------|----------------------|-----------------------------|------------------|
| APPLICATION NO.                                                                                                      | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
| 09/680,697                                                                                                           | 10/06/2000  | Walter W. Collins    | KSW 312RI                   | 1037             |
| 500 7590 01/18/2007<br>SEED INTELLECTUAL PROPERTY LAW GROUP PLLC<br>701 FIFTH AVE<br>SUITE 5400<br>SEATTLE, WA 98104 |             |                      | EXAMINER<br>DEXTER, CLARK F |                  |
|                                                                                                                      |             |                      | ART UNIT                    | PAPER NUMBER     |
|                                                                                                                      |             |                      | 3724                        |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE                                                                               |             | MAIL DATE            | DELIVERY MODE               |                  |
| 3 MONTHS                                                                                                             |             | 01/18/2007           | PAPER                       |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/680,697

Applicant(s)

COLLINS, WALTER W.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 15-25, 27-29, 34, 36, 37, 45, 52, 54 and 58-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 15-22 is/are allowed.
- 6) ☒ Claim(s) 23-25, 27-29, 34, 36, 37, 45, 52, 54 and 58-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 22, 2006 has been entered.

### ***Claim Objections***

2. Claims 58-62 are objected to because of the following informalities:

In claim 12, line 10, the recitation "to to" is improper.

In claim 15, line 3, the recitation "a folding knife, comprising:" is redundant with respect to lines 1-2 and thus is not sufficiently clear; in line 12, the recitation "to to" is improper.

In claim 34, line 5, "an variable" is improper.

In claim 63, line 7, it seems that a word such as --an-- is missing before "opening".

In claim 64, line 7, it seems that a word such as --an-- is missing before "opening".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112, 1<sup>st</sup> paragraph***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 58-64 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The original disclosure does not appear to provide support for a (single) biasing element that is operatively coupled at a first end thereof to the handle by a first coupling element, and is operatively coupled at a second end thereof to the blade by a second coupling element as set forth in claims 58 and 62-64. Rather, support is provided for a biasing element 90 that is part of a plunger assembly E, wherein a first end of the plunger assembly is operatively coupled to the handle by a first coupling element 92 and wherein a second end of the plunger assembly is operatively coupled to the blade by a second coupling element 86.

In other words, while the term "element" is fairly interpreted to mean a single integral feature, or even plural integral features (wherein the coupling elements 86 and 92 meet such a definition/interpretation), the term "element" is not fairly interpreted to convey the meaning of an assembly of non-integral features such as the spring 90 and the shaft 80 of the present invention. Therefore, it is suggested to change "biasing

element" to --biasing device-- or --biasing mechanism-- or --biasing structure-- or the like.

***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

5. Claims 54, 60 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 54, line 2, "the tang" lacks positive antecedent basis, and it is suggested to change "tang" to --tang end-- or the like.

In claim 60, line 3, "the tang" lacks positive antecedent basis.

In claim 61, line 2, "the tang" lacks positive antecedent basis.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 23, 29, 45, 52, 58, 59 and 62-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown, pn 1,864,011.

**Regarding claims 23 and 29,** Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

a handle (e.g., structure including 9, 10) defining a blade cavity and a first end;

a blade (e.g., 1, 1) having a first end and a second end opposite said first end; said first end of said blade having a blade pivot (e.g., at 11, 11) connected to said first end of said handle for pivotal movement of said blade about said blade pivot between an extended position wherein the blade is outside of said blade cavity and a retracted position wherein the blade is substantially within said blade cavity (e.g., as shown in Fig. 1); and

a plunger (e.g., 3) including a spring (e.g., 8), the plunger pivotally connected to the blade (e.g., via 11, 11) at a first end, and operably coupled to the handle at a second end, the spring being maximally deformed when the blade is pivoted to an intermediate point between the extended position and retracted position, thereby causing the spring to assist opening of the blade when the blade is pivoted from the retracted position toward the extended position beyond the intermediate point;

[claim 29] wherein said first end of said blade includes an arcuate slot (e.g., 14, 14) and wherein said handle includes a pin (e.g., 13, 13) carried in said arcuate slot, said arcuate slot having a first end and a second end, and said first end of said arcuate slot limiting said blade from movement beyond said extended position.

**Regarding claim 45,** Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

a handle (e.g., structure including 9, 10);

a blade (e.g., 1, 1) pivotally coupled to the handle to be moveable about a blade pivot point (e.g., 11, 11), such that the blade moves between a stowed position (e.g., shown in Fig. 1) and a deployed position; and

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a plunger (e.g., the left portion of 3, or the right portion of 3 as viewed in Fig. 1) coupled between the handle and the blade such that a portion of the plunger remains a fixed distance from the blade pivot point (e.g., the left portion of 3 remains a fixed distance from the right pivot point 11, particularly during pivoting of the upper blade 1 about the right pivot point; and the right portion of 3 remains a fixed distance from the left pivot point 11, particularly during pivoting of the lower blade 1 about the left pivot point); a spring (e.g., 8) coupled to the plunger to act on the blade to urge the blade into the stowed position when the blade is moved to the stowed position, and operates on the blade to urge the blade toward the deployed position when the blade is moved by an outside force from the stowed position at least partially toward the deployed position.

**Regarding claim 52**, Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

a handle (e.g., structure including 9, 10);

a blade (e.g., 1, 1) having a tang end coupled to the handle, the blade configured to rotate, relative to the handle, between a retracted position (e.g., shown in Fig. 1) and an extended position; biasing means (e.g., 8) for holding the blade in the retracted position in the handle while the blade is in the retracted position and for biasing the blade toward the extended position relative to the handle when the blade is moved from the retracted position past a point of maximum bias toward the extended position; and

moving means (e.g., the notch located on the blade between numerals 1 and 7, wherein the notch can clearly be accessed by a finger of a user's hand and pushed toward an open/extended position while the user is holding the knife in the same hand)

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for moving the blade from the retracted position to the extended position with one hand while holding the knife with the same one hand.

**Regarding claims 58 and 59**, Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

- a handle (e.g., structure including 9, 10);

- a blade (e.g., 1, 1) having a tang end coupled to the handle, the blade configured to rotate, relative to the handle, through an arc between a retracted position (e.g., shown in Fig. 1) and an extended position when an opening force is applied to the blade;

- a contact element (e.g., the notch located on the blade between numerals 1 and 7 as described above for claim 52) on the blade, positioned such that a user, holding the knife in one hand, can apply an opening force to the blade with a finger of the same hand;

- a biasing element including a spring (e.g., 8);

- a first coupling element (e.g., the leftmost portion of 3) operatively coupling a first end of the biasing element to the handle; and

- a second coupling element (e.g., the rightmost portion of 3) operatively coupling a second end of the biasing element to the blade;

[claim 59] wherein the biasing element is arranged such that the spring thereof increases in tension to a point of maximum tension as the blade is moved through the arc from the retracted position toward the extended position, then decreases in tension as the blade continues past the point of maximum tension toward the extended position.

**Regarding claim 62**, Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

a handle (e.g., structure including 9, 10);

a blade (e.g., 1, 1) having a tang end coupled to the handle, the blade configured to rotate, relative to the handle, through an arc between a retracted position (e.g., shown in Fig. 1) and an extended position when an opening force is applied to the blade;

a contact element (e.g., the notch located on the blade between numerals 1 and 7 as described above for claim 52) on the blade, positioned such that a user, holding the knife in one hand, can apply an opening force to the blade with a finger of the same hand;

a biasing element including a spring (e.g., 8), configured to apply a closing force to the blade while the blade is in the retracted position;

a first coupling element (e.g., the leftmost portion of 3) operatively coupling a first end of the biasing element to the handle; and

a second coupling element (e.g., the rightmost portion of 3) operatively coupling a second end of the biasing element to the blade.

**Regarding claim 63**, Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

a handle (e.g., structure including 9, 10);

a blade (e.g., 1, 1) having a tang end coupled to the handle, the blade configured to rotate, relative to the handle, through an arc between a retracted position (e.g.,

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shown in Fig. 1) and an extended position when an opening force is applied to the blade;

a contact element (e.g., the notch located on the blade between numerals 1 and 7 as described above for claim 52) on the blade, positioned such that a user, holding the knife in one hand, can apply opening force to the blade with a finger of the same hand;

a biasing element including a spring (e.g., 8), configured to resist rotation of the blade toward the extended position while the blade is in the retracted position;

a first coupling element (e.g., the leftmost portion of 3) operatively coupling a first end of the biasing element to the handle; and

a second coupling element (e.g., the rightmost portion of 3) operatively coupling a second end of the biasing element to the blade.

**Regarding claim 64**, Brown '011 discloses a folding knife with every structural limitation of the claimed invention including:

a handle (e.g., structure including 9, 10);

a blade (e.g., 1, 1) having a tang end coupled to the handle, the blade configured to rotate, relative to the handle, through an arc between a retracted position (e.g., shown in Fig. 1) and an extended position when an opening force is applied to the blade;

a contact element (e.g., the notch located on the blade between numerals 1 and 7 as described above for claim 52) on the blade, positioned such that a user, holding

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the knife in one hand, can apply opening force to the blade with a finger of the same hand;

a biasing element including a spring (e.g., 8), configured to apply no opening force to the blade while the blade is in the retracted position;

a first coupling element (e.g., the leftmost portion of 3) operatively coupling a first end of the biasing element to the handle; and

a second coupling element (e.g., the rightmost portion of 3) operatively coupling a second end of the biasing element to the blade.

### ***Claim Rejections - 35 USC § 102/103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 28 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brown, pn 1,864,011 (Brown '011).

Brown '011 discloses a folding knife with every structural limitation of the claimed invention including a clevis as claimed including pin (e.g., 13).

In the alternative, if it is argued that Brown '011 lacks the first end of the plunger including a clevis having a pin pivotally connected to the first end of the blade, the Examiner takes Official notice that such rotatable connections are old and well known in the art and provide various known benefits including providing a sturdy, unbiased

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connection for relative rotation between two components. Therefore, it would have been obvious to one having ordinary skill in the art to provide a clevis on the second end of the plunger for the well known benefits including those described above.

It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

### ***Claim Rejections - 35 USC § 103***

#### **Obviousness Rejections Based on Brown, pn 1,864,011**

10. Claims 24, 54, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, pn 1,864,011 (Brown '011) in view of Thompson et al., pn 5,131,149 (Thompson '149).

Brown '011 lacks the first end of the blade having an extension with a plurality of ridges thereon or, for claims 54 and 60, a plurality of directional saw-like teeth, or a pin coupled to an upper portion of the blade. Thompson '149 discloses a blade having such a plurality of ridges on a first end of the blade and teaches that it facilitates one-handed actuation of the blade. Therefore, it would have been obvious to one having ordinary skill in the art to provide an extension having a plurality of ridges on the blade of Brown '011 for the benefits taught by Thompson '149 including that described above.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, pn 1,864,011 (Brown '011) in view of Seber et al., pn 5,546,662.

Brown '011 lacks a belt clip connected to the handle adjacent one of the sides of the handle. Seber discloses such a clip for attachment to a belt. Such an attachment provides various obvious and well known benefits including freeing the hands for use while still maintaining possession of the knife and while providing easy and quick access to the knife. Therefore, it would have been obvious to one having ordinary skill in the art to provide a belt clip on the knife of Brown '011 for the obvious and well known benefits including those taught by Seber as described above.

12. Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, pn 1,864,011 (Brown '011).

Brown discloses a folding knife with almost every structural limitation of the claimed invention including a blade (e.g., 1), and an elongate, force-transmitting spring (e.g., 8) that performs the recited function(s), and a plunger (e.g., the portion to which the lead line for numeral 3 contacts). Further, the spring of Brown is operatively attached between the blade and the handle; for example, the spring (e.g., 8) is operatively attached to the handle via the leftmost portion corresponding to 3 and the associated pins (e.g., 11, 12) and openings (e.g., 5, 6), and the spring is also operatively connected to the blade via the rightmost portion corresponding to 3 and the associated pins (e.g., 11, 13) and openings (e.g., 5, 14).

Brown lacks the spring operating in the claimed direction; that is, a spring that exhibits the decrease in effective length as the blade is moved from one of the stowed and deployed conditions toward an intermediate point, and an increase in effective length as the blade is moved from the intermediate point toward the other conditions.

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However, it is old and well known in the art that springs operating in tension are equivalent to springs operating in compression, particularly since such springs are well known equivalents. Therefore, it would have been obvious to one having ordinary skill in the art to simply change the type of the spring that operates in tension to a spring that operates in compression.

### ***Issues Relating to Reissue Application***

13. Claims 23-25, 27-29, 34, 36, 37, 45, 52, 54 and 58-64 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to claim subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

Each of reissue claims 23, 34, 45, 52, 58 and 62-64 is an independent claim that fails the Third Step of the test set forth by the Court of Appeals for the Federal Circuit (see MPEP 1412.02). Specifically, at least one of the limitations added during the prosecution of the patent to distinguish over the prior art (that is, at least one of the surrender-generating limitations) was:

*“the first end of the plunger being slidably carried by said pivotal connector as said blade moves between said retracted and extended positions.”*

It is noted that while reissue claim 12, which is NOT rejected as being an improper recapture, is broader than patent claim 1 in the area of surrender, it does not entirely omit the limitation but rather sets forth that the first end of the plunger *assembly* is slidably and pivotally connected to the *handle*, rather than being slidably connected to a pivotal connector that is connected the handle. Thus, claim 12 merely recites a broader form of the key limitation added/argued during original prosecution to overcome an art rejection. It is noted that reissue claim 12 is considered narrower than patent claim 1 in other respects; specifically, the subject matter in the third paragraph of the claim which recites that the plunger assembly is configured to maintain the blade in the extended position ... , and to retain the blade in the retracted position ... . Therefore, claim 12 is NOT considered to be a claim that impermissibly recaptures what was previously surrendered and therefore is NOT barred under 35 U.S.C. 251.

However, none of reissue claims 23, 34, 45, 52, 58 and 62-64 include a recitation relating to the surrender-generating limitation recited above. Thus, these claims

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impermissibly recapture what was previously surrendered, and are barred under 35 U.S.C. 251.

***Allowable Subject Matter***

14. Claims 12, 13 and 15-22 are allowable over the prior art of record.

***Claimed Subject Matter***

15. Claims 25 and 27 are considered to read over the prior art of record because the prior art or record does not teach or suggest the claimed combination of features as claimed. However, these claims **cannot** be considered to be "allowable" at this time due to the rejection(s) under 35 U.S.C. 251 (improper recapture) set forth in this Office action. Therefore, upon the claims being rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action, further consideration of these claims with respect to the prior art will be necessary.

***Response to Arguments***

16. Applicant's arguments filed November 22, 2006 have been fully considered but they are not persuasive.

In the last paragraph on page 15 and the first and second paragraphs on page 16 of the amendment regarding the prior art rejection to claims 12 and 19-21, applicant argues that the Examiner erred in asserting that FP '862 teaches or enables each of the claimed elements, and states that the claim limitation "said plunger assembly includes a

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clevis having a pin pivotally connected to said first end of said blade" in the extended position while the blade is in the extended position, and to retain the blade in the retracted position while the blade is in the retracted position .... " is not met by FP '862. However, it is respectfully submitted that such a limitation could not be found in claim 12 and thus is not required to be met by the prior art.

In the third paragraph on page 20 of the amendment, applicant states that claim 23 has been amended to incorporate the subject matter of claim 26. It is respectfully submitted that, upon review of the claims, claim 26 has been canceled. However, the subject matter thereof has not been incorporated in claim 23. Further in the paragraph, applicant argues that:

*"While the Examiner does not include claim 23 in the list of claims with allowable subject matter, neither does the Examiner assert any grounds for rejecting claim 23. Accordingly, unless the Examiner indicates otherwise, applicant will assume that it was a mere oversight that the claim was not listed among the allowable claims, and will make no argument in support of its allowability."*

First, it is presumed that applicant is referring to claim 26, not claim 23 since claim 23 is explicitly described as being rejected over prior art in the Office action. Regarding claim 26, it is considered to be allowable over the prior art of record, but was not listed as such because it is rejected under improper recapture (see paragraph 19 of the Office action).

In the last paragraph on page 20 of the amendment, applicant argues that Brown does not anticipate claim 52 because applicant contends that the knife of Brown cannot

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be opened with one hand. However, it is respectfully submitted that applicant has not pointed out any structure that is missing in Brown, but only argues that Brown cannot be used in the same manner as the present invention. Contrary to applicant's argument, it is clearly possible for the knife of Brown to be opened with one hand using the notch. The Examiner has performed and has seen others perform such a function with one hand. For example, such a knife can be placed in the palm and/or fingers of one hand such that the notch faces the users thumb. Then, the user's thumbnail, or the end of the user's thumb, can be pressed upwardly against the notch and the thumb extended to force the knife from the retracted position and open the knife. Thus, because no additional structure is clearly implied by the subject recitations, it is respectfully submitted that the prior art rejection must be maintained.

Regarding applicant's arguments directed to the rejections of claims 58 and 62-64, the Examiner's position is the same as that described above for claim 52.

In response to applicant's arguments directed to the improper recapture rejections, it is respectfully submitted that applicant's arguments are directed to claim 12 which was not rejected under improper recapture.

Regarding applicant's arguments directed to the improper recapture of claim 23, applicant argues that claim 23 also recites a safety member. However, as described above, it is respectfully submitted that this argument is inaccurate since a safety member is not recited in claim 23.

Regarding applicant's arguments directed to the improper recapture of claims 34, 45, 52, 58 and 62-64, the Examiner respectfully maintains that none of these claims

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include a recitation relating to the surrender-generating limitation recited above; specifically a plunger, which corresponds to at least feature 80 of the present invention, is not recited in any form in any of these claims.

***Claim Rejections - Defective Oath/Declaration***

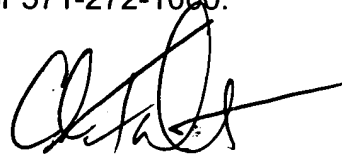
17. It is noted that a new declaration has not been submitted. However, as requested by applicant, the requirement to submit a proper declaration corresponding to the claims of record has been held in abeyance until further notice.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Clark F. Dexter', with a long horizontal stroke extending to the right.

**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
January 9, 2007